

Docket No.: 29804/36569A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
William Phelan et al.

Application No.: 09/993,992

Confirmation No.: 9063

Filed: November 14, 2001

Art Unit: 3694

For: METHODS AND APPARATUS FOR
AUTOMATICALLY EXCHANGING CREDIT
INFORMATION

Examiner: J. H. Swartz

**DECLARATION OF WILLIAM PHELAN
PURSUANT TO 37 C.F.R §1.132**

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I do hereby declare as follows:

1. I am a named co-inventor of the subject matter disclosed and claimed in the above-identified application ("the patent application"). I am now, and have been since 3/15/2000, president of PayNet, Inc. ("PayNet"), a corporation I co-founded.

2. I hold a Masters in Business Administration (MBA) degree from Loyola University Graduate School of Business with a concentration in Finance. I have also been certified as a Chartered Financial Analyst by the CFA Institute. My experience in finance includes managing an investment portfolio of fixed income securities, advising pension plans, banks, and asset managers regarding their clients' investment needs, and advising privately-held companies on acquisitions and valuations. I have spoken on the subject of addressing business needs in the area related to the pending application at Equipment Leasing and Finance Association Annual Conferences, Synovus Business Banking C&I Forum, and Consortium on Bank Regulation. My work on the subject matter related to the pending application has been published by several industry journals.

3. I have reviewed the Office Action mailed on April 30, 2009 and the prior art references on which the rejections under 35 U.S.C. § 103(a) are based.

4. I make this declaration for the purpose of providing evidence of secondary considerations of non-obviousness, including commercial success and addressing a long-standing, unresolved need of the industry being served, in order to rebut the obviousness rejections in the Office Action mailed April 30, 2009.

5. PayNet launched a system for automatically exchanging credit information ("the credit exchange system") that implements the currently pending claim 1 in July, 2002 (commercial launch date). Upon information and belief, no system provided the features recited in claim 1 prior to the time PayNet implemented the credit exchange system. The practice common in the industry was to manually place phone calls to lenders to obtain credit references. At the time of launching the credit exchange system, we believed there existed a long-standing, unresolved need for automatically exchanging credit information as recited in claim 1 of the pending application.

6. It is the policy of PayNet not to disclose the identity of its clients.

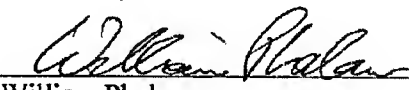
7. The credit exchange system includes a database ("the PayNet database"). As of May, 2009, the PayNet database stores data related to 14.6 million term debt contracts, whose total value is approximately \$670 billion. Further, eight of the top ten commercial lenders in the United States are PayNet members. Upon information and belief, the PayNet database holds one of the largest collection of commercial loan and lease data in the United States.

8. PayNet has conducted several case studies to assess the value of services PayNet offers to its clients. According to one case study conducted by PayNet, a commercial card issuer has been shown to reduce credit losses by \$3.5 million per year, increased credit origination by \$2.5 million per year, and increased the auto-decision rate by approximately 10%. According to another case study, a transportation equipment lender has reduced credit losses by 16% and increased credit origination by 5%. The transportation equipment lender estimates the overall value of the improvement at \$2.7 million annually.

9. I believe the commercial success of PayNet is due, at least in large part, to the credit exchange system. For example, the credit exchange system automatically processes payment history data, stores information related to the payment history data in a centralized repository, and provides the information to customers, as recited in claim 1. Because the credit exchange system is one of the most important aspects of PayNet operations, I believe the commercial success of PayNet is largely attributable to the features recited in claim 1.

10. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and such willful false statements may jeopardize the validity of the application or patent issued thereon.

August 27, 2009
Date



William Phelan